

APPEAL NO. 041612
FILED AUGUST 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 7, 2004. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fifth and sixth quarters. The claimant appealed on sufficiency of the evidence grounds and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant failed to satisfy the good faith requirement of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)), which requires the claimant to prove that he had no ability to work during the relevant qualifying periods. The hearing officer was not persuaded that the evidence presented by the parties was sufficient to satisfy the requirements of Rule 130.102(d)(4). Specifically, the hearing officer essentially determined that there was a narrative report from the claimant's doctor that specifically explained how the claimant's injury caused a total inability to work, but that there was an "other record" which showed that the claimant had some ability to work during the relevant qualifying periods. Nothing in our review of the record reveals that the hearing officer's determinations in that regard are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the hearing officer's good faith determination, or the determination that the claimant is not entitled to SIBs for the fifth and sixth quarters, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CLARENDON NATIONAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**UNITED STATES CORPORATION COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Daniel R. Barry
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge